Office Supreme Court, U. S.
FILED
APR 28 1923
WM. R. STANSBURY
CLERK

IN THE

Supreme Court of the United States

OCTOBER TERM 1922.

No. 717.

AMERICAN BANK & TRUST COMPANY, et al.,
Appellants,

vs.

FEDERAL RESERVE BANK OF ATLANTA, et al.,
Appellees.

APPEAL FROM THE UNITED STATES CIRCUIT COURT OF APPEALS FOR THE FIFTH CIRCUIT.

BRIEF FOR APPELLEES.

HOLLINS N. RANDOLPH,
ROBERT S. PARKER,
Counsel for the Defendants.

JOHN W. DAVIS,
MONTGOMERY B. ANGELL,
Of Counsel.

INDEX.

PAGE

Accumulation of checks.....9, 26
Annoying, expensive and embarrassing methods alleged 11, 29
Argument 13
Attitude of plaintiffs.....11, 36
Change of front alleged..... 35
Charges made by plaintiffs..... 28
Checks payable on presentation, characteristics of 25, 33
Clearing houses, customary function of in collecting checks 15
Coercion and duress..... 26
Collection at par, Federal Reserve Banks so required 17
Collection of checks:
  Legality of proposed method of..... 24
  Three lawful methods of..... 24
Conclusion 45
Conspiracy, allegation of as affecting admissibility of evidence..... 42
Dismissal of the appeal, defendants entitled to 33
Dotham bank incident 11
Evidence:
  Admissibility of acts of other Federal Reserve Banks 39
  Relevancy of acts of other Federal Reserve Banks 40
Exchange acceptable in payment of checks..7, 34

PAGE

Exchange charges:
Amount of per year in case assessed on all out of town checks..... 24
Customary amount of in past..... 4
Federal Reserve Banks unauthorized to pay such 17
Expenses incident to collection through agents, authority for..... 21
Federal Reserve Banks:
Authority of to accept and collect checks drawn on non-member banks..... 14
Independence of one from the other..... 41
Uniting in efforts to establish national par list 43
Federal Reserve Board:
Supervisory capacity of..... 41
Inauguration by of policy of par clearance 4
Publication by of par list..... 8
Findings of court below..... 28
Good faith of defendant bank..... 34
History of the case..... 1
Injunction, unwarranted unless real threatened injury established..... 34
Interrogatories propounded to defendants, answers to properly admitted..... 38
Intervention, petition for properly denied... 36
Just cause or excuse, no want of..... 30
Letter of December 23, 1919..... 11
Loss suffered by plaintiffs cannot affect defendant's rights 32

PAGE

Par clearance:
Advantages of 22
Dictates of sound banking require..... 22
Inauguration of by the Board..... 4
Plan adopted 7
Preliminary measures adopted..... 4
Par Lists 8
Petition of intervention properly denied..... 36
Proceedings on demurrer..... 2
Quincy State Bank incident..... 9
Res inter alios acta as ground for exclusion of testimony 39
Rulings of Trial Court, propriety of..... 36
Section 13 of Federal Reserve Act:
Construction of 15
History of 16
Section 16 of Federal Reserve Act:
Construction of 14
Statement of facts..... 3
Synopsis of argument..... VII
Table of cases..... IV
Testimony showing activities of other Federal Reserve Banks properly excluded..... 39
Textbooks VI
Ulterior motives 10, 28, 33

TABLE OF CASES.

PAGE

Aikens v. *Wisconsin*, 195 U. S. 194.....30, 31
Allis-Chalmers Co. v. *Iron Moulders Union No. 125*, 150 Fed. 155.....27, 32
American Bank & Trust Co. v. *Federal Reserve Bank*, 256 U. S. 350..... 2
American Bank & Trust Co. v. *Federal Reserve Bank*, 269 Fed. 4.....2, 19, 21
American Bank & Trust Co. v. *Federal Reserve Bank*, 280 Fed. 940, 284 Fed. 424....2, 19
Bitterman v. *Louisville, etc., R. R. Co.*, 207 U. S. 205..... 30
Blair v. *Chicago*, 201 U. S. 400, 450..... 21
Brennan v. *United Hatters*, 73 N. J. L. 729, 65 Atl. 165.....30, 31
Brookings State Bank v. *Federal Reserve Bank of San Francisco*, 277 Fed. 430; 281 Fed. 222..... 19
City of New York v. *New York Telephone Co.*, October Term, 1922, decided March 12, 1923, Docket No. 588..... 37
Cogan Co. v. *Hughes*, 145 Ga. 5; 88 S. E. 418 41
Consolidated Gas Co. v. *Newton*, 256 Fed. 238 37
Credits Commutation Co. v. *U. S.*, 177 U. S. 311 37
Donovan v. *Campion*, 85 Fed. 71..... 37
Dunn v. *Bryan*, Ir. R. 7 Eq. 143..... 34
Ex parte Leaf Tobacco Board of Trade, 222 U. S. 578..... 37
Ex parte Cutting, 94 U. S. 14..... 37
Farmers & Merchants Bank v. *Federal Reserve Bank of Richmond*, 183 N. C. 546, 112 S. E. 252.....19, 34

PAGE

Farmers, etc., Bank of Catlettsburg v. *Federal Reserve Bank of Cleveland*, U. S. D. C. E. D. Ky. (unreported) 19

Hitchman Coal & Coke Co. v. *Mitchell*, 245 U. S. 229 .....30, 32

In re Engelhard, 231 U. S. 646 37

In re Penn Development Co., 220 Fed. 222 .. 34

Jefferies v. *Pitts* (Ala.), 75 So. 959 41

Kerbaugh v. *Gray*, 212 Fed. 716 41

MaCauley v. *Tierney*, 19 R. I. 225, 37 L. R. A. 455 .....30, 31, 32

McKee v. *Hughes*, 133 Tenn. 455; 181 S. W. 930 32

Mumford v. *Rock Springs Grazing Ass'n*, 261 Fed. 842 34

National Bank v. *Matthews*, 98 U. S. 621 ... 21

National Fireproofing Co. v. *Mason Builders' Association* (C. C. A.), 169 Fed. 259 27, 30, 32

Palatine Ins. Co. v. *Griffin* (Tex. C. C. App. 1918), 202 S. W. 1014 30

Picket v. *Walsh*, 192 Mass. 572; 78 N. E. 753 .....30, 31

Plant v. *Woods*, 176 Mass. 492, 57 N. E. 1011 .....30, 32

Ricker v. *Railway*, 90 Me. 395; 38 Atl. 338 .. 27

Sargent v. *Ohio & M. R. Co.*, 1 Hardy (Ohio) 52 34

Selma Water Co. v. *City of Selma*, 154 Fed. 138 34

Sharpless Separator Co. v. *Skinner*, 251 Fed. 25 41

S. S. White Dental Mfg. Co. v. *Mitchell*, 188 Fed. 1017 34

PAGE

State v. *Huegin*, 110 Wisc. 189; 85 N. W. 1046 27
Trenton Oilcloth Co. v. *Munroe*, 218 Fed. 370 41
Veazie Bank v. *Fenno*, 8 Wall. 533..... 19
West Va. Trans. Co. v. *Standard Oil Co.*, 50 W. Va. 611; 40 S. E. 591.....30, 32
Whalen v. *Dalashmutt*, 59 Md. 250..... 34

TEXT BOOKS.

Foster: Federal Practice (6th Ed.) §258.... 37
Jones: Evidence, §§135, 140.....40, 41
Reynolds: Stephen's Digest Evid., p. 20 note 6 42
Stark: Evidence (3rd Ed.) 58, 59..... 41
Street: Federal Eq. Prac., Vol. I, §507..... 37
Thralls: The Clearing House..... 15

SYNOPSIS OF ARGUMENT.

PAGE

I.

In proposing to collect checks at par on all banks located within the Sixth Federal Reserve District, the Federal Reserve Bank of Atlanta is acting pursuant to and in furtherance of the express direction of Congress as embodied in the provisions of the Federal Reserve Act, as amended.

(1)

The Federal Reserve Act authorizes the Federal Reserve Banks to accept for collection and to collect any and all checks payable upon presentation when deposited with them for collection 14

(2)

Checks received by Federal Reserve Banks for collection must be collected at par, since the Federal Reserve Banks are not permitted under the terms of the Federal Reserve Act to accept in payment of checks deposited with them for collection an amount less than the full face value thereof 17

PAGE

(3)

The dictates of sound banking require that if the several Federal Reserve Banks, in undertaking the collection of checks payable on presentation at par, are to render satisfactory and efficient service to their member banks, they must be prepared to accept for collection and to collect at par any and all checks deposited with them for collection 22

II.

The method of check collection which the Federal Reserve Bank of Atlanta proposes to adopt is entirely legal both in respect to the means employed and the end in view, and consequently plaintiffs have no grounds for complaint.

(1)

The means to be employed and the ends in view are legal..... 24

(2)

There is no ulterior motive in fact..... 28

(3)

There is no want of just cause or excuse..... 30

III.

The defendants are entitled to a dismissal of this appeal.

(1)

The plaintiffs entirely failed in their proof, either of unlawful methods or ulterior motives 33

PAGE

(2)

The evidence entirely negatives any past or prospective abuse by the defendants of their right to demand payment in cash. The lawful exercise of this undoubted right cannot be forbidden 33

(3)

The defendants cannot be required to submit to any order of injunction merely because it may be framed in accordance with their expressed purposes and is therefore harmless. The decree must declare the very right of the cause 34

IV.

There was no error in the rulings of the Trial Court.

(1)

The Trial Court properly denied the petition for intervention 36

(2)

The Trial Court properly admitted the answers of the defendants to the interrogatories propounded to them under Equity Rule 58 38

(3)

The Trial Court properly excluded the testimony offered purporting to show the activities of other Federal Reserve Banks in other Districts 39

CONCLUSION.